

(1) Demonstrate you paid prior fee within 30 calendar days of the date of billing; or

(2) Pay any unpaid amount of the previous fee, plus any applicable interest penalties (see § 2.53 of this subpart), and pay in advance the estimated fee for the new request.

(c) When the bureau notifies you that an advance payment is due, it will give you an opportunity to reduce the fee by modifying the request.

(d) The bureau may require payment before records are sent to you; such a payment is not considered an “advance payment” under § 2.50(a) of this subpart.

(e) If the bureau requires advance payment, it will start further work only after receiving the advance payment. It will also notify you that it will not be able to comply with your FOIA request unless you provide the advance payment. Unless you pay the advance payment within 20 workdays after the date of the bureau’s fee letter, the bureau will presume that you are no longer interested and will close the file on the request.

§ 2.51 What if the bureau needs clarification about fee issues?

(a) If your FOIA request does not contain sufficient information for the bureau to determine your proper fee category or leaves another fee issue unclear, the bureau may ask you to provide additional clarification. If it does so, the bureau will notify you that it will not be able to comply with your FOIA request unless you provide the clarification requested.

(b) If the bureau asks you to provide clarification, the 20-workday statutory time limit for the bureau to respond to the request is temporarily suspended.

(1) If the bureau hears from you within 20 workdays, the 20-workday statutory time limit for processing the request will resume (see § 2.16 of this part).

(2) If you still have not provided sufficient information to resolve the fee issue, the bureau may ask you again to provide additional clarification and notify you that it will not be able to comply with your FOIA request unless you provide the additional information requested within 20 workdays.

(3) If the bureau asks you again for additional clarification, the statutory time limit for response will be temporarily suspended again and will resume again if the bureau hears from you within 20 workdays.

(c) If the bureau asks for clarification about a fee issue and does not receive a written response from you within 20 workdays, it will presume that you are

no longer interested and will close the file on the request.

§ 2.52 How will you be billed?

If you are required to pay a fee associated with a FOIA request, the bureau processing the request will send a bill for collection.

§ 2.53 How will the bureau collect fees owed?

(a) The bureau may charge interest on any unpaid bill starting on the 31st day following the billing date.

(b) The bureau will assess interest charges at the rate provided in 31 U.S.C. 3717 and implementing regulations and interest will accrue from the billing date until the bureau receives payment.

(c) The bureau will follow the provisions of the Debt Collection Act of 1982 (Public Law 97–365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset to collect overdue amounts and interest.

(d) This section does not apply if you are a state, local, or tribal government.

§ 2.54 When will the bureau combine or aggregate requests?

(a) The bureau may aggregate requests and charge accordingly when it reasonably believes that you, or a group of requesters acting in concert with you, are attempting to avoid fees by dividing a single request into a series of requests on a single subject or related subjects.

(1) The bureau may presume that multiple requests of this type made within a 30-day period have been made to avoid fees.

(2) The bureau may aggregate requests separated by a longer period only where there is a reasonable basis for determining that aggregation is warranted in view of all the circumstances involved.

(b) The bureau will not aggregate multiple requests involving unrelated matters.

§ 2.55 What if other statutes require the bureau to charge fees?

(a) The fee schedule in appendix A to this part does not apply to fees charged under any statute that specifically requires the bureau to set and collect fees for particular types of records.

(b) If records otherwise responsive to a request are subject to a statutorily-based fee schedule, the bureau will inform you whom to contact to obtain the records.

§ 2.56 May the bureau waive or reduce your fees at its discretion?

(a) The bureau may waive or reduce fees at its discretion if a request involves furnishing:

(1) A copy of a record that the bureau has reproduced for free distribution;

(2) One copy of a personal document (for example, a birth certificate) to a person who has been required to furnish it for retention by the Department;

(3) One copy of the transcript of a hearing before a hearing officer in a grievance or similar proceeding to the employee for whom the hearing was held;

(4) Records to donors with respect to their gifts;

(5) Records to individuals or private nonprofit organizations having an official, voluntary, or cooperative relationship with the Department if it will assist their work with the Department;

(6) A reasonable number of records to members of the U.S. Congress; state, local, and foreign governments; public international organizations; or Indian tribes, when to do so is an appropriate courtesy, or when the recipient is carrying on a function related to a Departmental function and the waiver will help accomplish the Department’s work;

(7) Records in conformance with generally established business custom (for example, furnishing personal reference data to prospective employers of current or former Department employees); or

(8) One copy of a single record to assist you in obtaining financial benefits to which you may be entitled (for example, veterans or their dependents, employees with Government employee compensation claims).

(b) You cannot appeal the denial of a discretionary fee waiver or reduction.

Subpart H—Administrative Appeals

§ 2.57 When may you file an appeal?

(a) You may file an appeal when:

(1) The bureau withholds records, or parts of records;

(2) The bureau informs you that your request has not adequately described the records sought;

(3) The bureau informs you that it does not possess or cannot locate responsive records and you have reason to believe this is incorrect or that the search was inadequate;

(4) The bureau did not address all aspects of the request for records;

(5) You believe there is a procedural deficiency (for example, fees are improperly calculated);

(6) The bureau denied a fee waiver;

(7) The bureau did not make a decision within the time limits in § 2.16 or, if applicable, § 2.18; or

(8) The bureau denied, or was late in responding to, a request for expedited

processing filed under the procedures in § 2.20 of this part.

(b) An appeal under paragraph (a)(8) of this section relates only to the request for expedited processing and does not constitute an appeal of the underlying request for records. Special procedures apply to requests for expedited processing of an appeal (see § 2.63 of this subpart).

(c) Before filing an appeal, you may wish to communicate with the contact person listed in the FOIA response, the bureau's FOIA Officer, and/or the FOIA Public Liaison to see if the issue can be resolved informally. However, appeals must be received by the FOIA Appeals Officer within the time limits in § 2.58 of this subpart or they will not be processed.

§ 2.58 How long do you have to file an appeal?

(a) Appeals covered by § 2.57(a)(1) through (5) of this subpart must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the final response.

(b) Appeals covered by § 2.57(a)(6) of this subpart must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the letter denying the fee waiver.

(c) Appeals covered by § 2.57(a)(7) of this subpart may be filed any time after the time limit for responding to the request has passed.

(d) Appeals covered by § 2.57(a)(8) of this subpart should be filed as soon as possible.

(e) Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

§ 2.59 How do you file an appeal?

(a) You must submit the appeal in writing by mail, fax or email to the FOIA Appeals Officer (using the address available at <http://www.doi.gov/foia/appeals.cfm>). Your failure to send an appeal directly to the FOIA Appeals Officer may delay processing.

(b) The appeal must include:

(1) Copies of all correspondence between you and the bureau concerning the FOIA request, including the request and the bureau's response (if there is one); and

(2) An explanation of why you believe the bureau's response was in error.

(c) The appeal should include your name, mailing address, daytime telephone number (or the name and telephone number of an appropriate contact), email address, and fax number (if available) in case the Department needs additional information or clarification.

(d) An appeal concerning a denial of expedited processing or a fee waiver denial should also demonstrate fully how the criteria in § 2.20 or §§ 2.45 and 2.48 of this part are met.

(e) All communications concerning an appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL."

(f) The Department will reject an appeal that does not attach all correspondence required by paragraph (b)(1) of this section, unless the FOIA Appeals Officer determines, in his or her sole discretion, that good cause exists to accept the defective appeal. The time limits for responding to an appeal will not begin to run until the correspondence is received.

§ 2.60 Who makes decisions on appeals?

(a) The FOIA Appeals Officer is the deciding official for FOIA appeals.

(b) When necessary, the FOIA Appeals Officer will consult other appropriate offices, including the Office of the Solicitor for denials of records and fee waivers.

(c) The FOIA Appeals Officer normally will not make a decision on an appeal if the request becomes a matter of FOIA litigation.

§ 2.61 How are decisions on appeals issued?

(a) A decision on an appeal must be made in writing.

(b) A decision that upholds the bureau's determination will notify you of the decision and your statutory right to file a lawsuit.

(c) A decision that overturns, remands, or modifies the bureau's determination will notify you of the decision. The bureau then must further process the request in accordance with the appeal determination.

§ 2.62 When can you expect a decision on your appeal?

(a) The basic time limit for responding to an appeal is 20 workdays after receipt of an appeal meeting the requirements of § 2.59 of this subpart.

(b) The FOIA Appeals Officer may extend the basic time limit, if unusual circumstances exist. Before the expiration of the basic 20-workday time limit to respond, the FOIA Appeals Officer will notify you in writing of the unusual circumstances involved and of the date by which he or she expects to complete processing of the appeal.

(c) If the Department is unable to reach a decision on your appeal within the given time limit for response, the FOIA Appeals Officer will notify you of:

(1) The reason for the delay; and

(2) Your statutory right to seek review in a United States District Court.

§ 2.63 Can you receive expedited processing of appeals?

(a) To receive expedited processing of an appeal, you must demonstrate to the Department's satisfaction that the appeal meets one of the criteria under § 2.20 of this part and include a statement that the need for expedited processing is true and correct to the best of your knowledge and belief.

(b) The FOIA Appeals Officer will advise you whether the Department will grant expedited processing within 10 calendar days of receiving the appeal.

(c) If the FOIA Appeals Officer decides to grant expedited processing, he or she will give the appeal priority over other pending appeals and process it as soon as practicable.

§ 2.64 Must you submit an appeal before seeking judicial review?

Before seeking review by a court of the bureau's adverse determination, you generally must first submit a timely administrative appeal.

Subpart I—General Information

§ 2.65 Where are records made available?

Records that are required by the FOIA to be made proactively available for public inspection and copying are accessible on the Department's Web site, <http://www.doi.gov/foia/libraries.cfm>. They may also be available at bureau office locations.

§ 2.66 What are public liaisons?

(a) Each bureau has a FOIA Public Liaison that can assist individuals in locating bureau records.

(b) FOIA Public Liaisons report to the Department's Chief FOIA Officer and you can raise concerns to them about the service you have received.

(c) FOIA Public Liaisons are responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in resolving disputes.

(d) A list of the Department's FOIA Public Liaisons is available at <http://doi.gov/foia/servicecenters.cfm>.

§ 2.67 When will the Department make records available without a FOIA request?

(a) Each bureau must:

(1) Determine which of its records must be made publicly available under the FOIA (for example, certain frequently requested records);

(2) Identify additional records of interest to the public that are appropriate for public disclosure; and

(3) Post those records in FOIA libraries.

(b) Because of these proactive disclosures, you are encouraged to review the Department's FOIA libraries